



RESPECTING THE RIGHTS OF PEOPLE IN SUSTAINABLE DEVELOPMENT: THE ROLE OF BUSINESS

Background Note: Rio+20 must be aligned with UN Guiding Principles on Business and Human Rights¹

The Zero draft acknowledges that the private sector has an important role to play in moving towards sustainable development. Business and industry are encouraged to show leadership in advancing a green economy founded on a sustainable path for all three dimensions of development – economic, social and environmental – geared towards inclusiveness and poverty eradication.

The UN Working Group on the issue of human rights and transnational corporations and other business enterprises welcomes the Zero draft and supports the view set out in the draft on the role of the private sector. The business sector's contribution to economic growth, investment in new technology and job creation, and the quest for new durable and innovative solutions to all three pillars of sustainable development is crucial.

At the same time it has long since been acknowledged that business activities can have adverse impacts on people and environment, including on the situation of particularly vulnerable groups, such as Indigenous Peoples. As emphasized in the Open Letter from Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit, accountability must be at the heart of Rio +20, if the process is to deliver. The Working Group strongly supports the view stated in the letter that "Strategies based on the protection and realization of all human rights are vital for sustainable development." In this respect, while acknowledging that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State, it is important to reiterate that all business enterprises also have a responsibility to respect human rights. Business' contribution to a socially sustainable and equitable development starts with respecting the rights of people affected by their activities – in simple terms: avoid infringing on the rights of others and address adverse human rights impacts with which they are involved.

Our observations rest on the normative clarity and consensus about the respective roles and responsibilities of States and business enterprises regarding human rights that have been achieved globally. In June 2011, when the Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights for implementing the UN "Protect, Respect and Remedy" framework, it effectively established the Guiding Principles as the first authoritative global standard for preventing and addressing the adverse impacts on human rights linked to business activity.² The UN business and human rights standard affirmed the State duty to protect human rights against adverse impacts by non-State actors, including

¹ See also *Open Letter from Special Procedures mandate-holders of the Human Rights Council to States negotiating the Outcome Document of the Rio+20 Summit*.

² See A/HRC/17/31 (Annex to the report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, 21 March 2011), unanimously endorsed by Human Rights Council resolution A/HRC/RES/17/4.

business; the corporate responsibility to respect human rights; and the need for greater access to remedy for victims of business-related human rights abuse. Within and beyond the UN, an unprecedented level of alignment of key standards and initiatives, with both global and regional reach, covering all geographic regions and business sectors, is taking place around the Guiding Principles.³ Rio +20 should take this reality into account and align its outcomes with the UN standards for business and human rights.

The Guiding Principles on Business and Human Rights were designed to address the governance gaps created by globalization. These gaps, characterized by a growth in the scope and impacts of the business sector not matched by a similar rise in the capacity of societies to manage the adverse consequences, are the same as those faced by Rio+20. The Guiding Principles – the result of a UN-led open and inclusive multistakeholder process – offer a common platform and direction for all actors on how to manage human rights challenges linked to business activity.

The Guiding Principles highlight the legal and policy measures States should take to foster business respect for human rights, thereby laying the ground for business practice conducive to a socially sustainable development.

They also outline the concrete policies and due diligence processes business enterprises should have in place to embed respect for human rights in their practice and demonstrate their commitment of doing so to others. Failure to address human rights risks does not only imply risks to people, but increasingly also risks to business enterprises themselves, and consequently the economic pillar of sustainable development.

Finally, the Guiding Principles provide a set of benchmarks and widely supported accountability framework for civil society and other stakeholders to assess business respect for human rights.

While the Guiding Principles clarify the respective roles and responsibilities of different actors, they also hint that achieving the ultimate goal of sustainable economic activities in which human rights are respected, can only be achieved if all actors pull together. The State duty to protect human rights and the business responsibility to respect human rights are independent of each other, but at the same time closely inter-linked and complementary. Moreover, those responsibilities are also only meaningful if people adversely affected by business activities have access to effective remedy. With regard to promoting the latter, civil society has a key role to play.

The Zero draft covers a wide range of thematic issues – for which the business sector is envisaged as playing an important role together with Governments in working towards the vision of a sustainable future for people and the environment. While acknowledging the importance of appropriate accountability, the Zero draft, however, does not adequately clarify what direction is needed for achieving that imperative. To avoid that commitments made at Rio+20 therefore risk becoming empty promises, the Working Group supports the proposal made in the Open Letter from Special Procedure mandate holders that accountability

³ See 2011 update of the OECD Guidelines for Multinational Enterprises (due diligence recommendations and human rights chapter); the IFC Performance Standards on Environmental and Social Sustainability updated in 2011; the UN Global Compact's first principle, which content is clarified by the Guiding Principles; the ISO 26000 social responsibility standard (human rights chapter).

mechanisms for States should be placed at the heart of the process. This should be complemented by the responsibility of all business enterprises in the pursuit of sustainable development to respect human rights – regardless of their size, sector, ownership, structure and operational context. This provides a clear approach for Rio+20 to become fully aligned with other international standards.

We therefore recommend that the Governments negotiating at Rio+20 take into account the need to align outcome documents with established international standards for business and human rights, especially the UN Guiding Principles on Business and Human Rights. To the extent that business has a key role to play in working towards a sustainable development, reference to business responsibility in the social dimensions of Rio+20 should integrate the responsibility of business to respect human rights.

Specifically, we also recommend that the following language is taken into account:

- **In paragraph 19 [engagement of major groups]: in order to fully contribute towards the goal of sustainable development, business enterprises should meet their corporate responsibility to respect human rights, which means to avoid infringing on the rights of others and to address adverse human rights impacts with which they are involved.**
- **In paragraph 23 [framework for action]: commitment to reinvigorating the global partnership for sustainable development should be founded on established standards on the respective roles and responsibilities of States and business enterprises with regard to human rights in the context of business activities.**
- **In paragraph 24 [the call for a global policy framework requiring all listed and large private companies to consider sustainability issues and to integrate sustainability information within the reporting cycle]: include a reference to the corporate responsibility to respect human rights and state that in order to meet this responsibility business enterprises should communicate to stakeholders on how they address their human rights impacts.⁴ In order to be aligned with established international standards, the paragraph should stress that the corporate responsibility to respect human rights applies to all business enterprises – both transnational corporations and other business enterprises, regardless of size, sector, ownership, structure and operational context – and that the standard of communicating on how human rights impacts are being addressed applies to all enterprises.**
- **In paragraph 116 [means of implementation – finance]: public policy to create a stable investment climate should be consistent with the State’s duty to protect individuals against adverse human rights impacts of investment projects. Additionally, the corporate responsibility to respect human rights also applies in the context of investment, which implies that investors should exercise due diligence to avoid adverse human rights impacts and address adverse impacts that do occur.**

⁴ See Guiding Principle 21 of A/HRC/17/31.